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UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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GOOGLE, INC., a Delaware corporation,  
  
Plaintiff,  
  
v.

PACIFIC WEBWORKS, INC., a Nevada  
corporation, BLOOSKY INTERACTIVE,  
LLC, a Nevada limited liability company,  
and DOES 2-50,  
  
Defendants.

**DEFENDANT BLOOSKY  
INTERACTIVE'S ANSWER TO  
PLAINTIFF GOOGLE'S FIRST  
AMENDED COMPLAINT**

CASE NO. 2:09-CV-1068-BSJ  
Judge: Bruce S. Jenkins

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**TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:**

Defendant, BLOOSKY INTERACTIVE, LLC (herein "Bloosky"), through its attorney of record, hereby answers the unverified First Amended Complaint of Plaintiff, GOOGLE INC. (herein "Google") as follows:

**THE PARTIES**

1. Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 1 and, therefore, denies them.
2. Bloosky admits that Bloosky is a limited liability company, with one or more

satellite offices in Utah. Bloosky otherwise denies the remaining allegations of paragraph 2.

3. Bloosky admits the allegations of paragraph 3.

4. The allegations of paragraph 4 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky denies the allegations of paragraph 4 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 4 and, therefore, denies them.

5. The allegations of paragraph 5 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky denies the allegations of paragraph 5 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 5 and, therefore, denies them.

### **JURISDICTION AND VENUE**

6. Whether this Court has subject matter jurisdiction over this action is a legal conclusion to which no response by Bloosky is required. To the extent a response is required, Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 6 and, therefore, denies them.

7. Whether this Court has subject matter jurisdiction over this action is a legal conclusion to which no response by Bloosky is required. To the extent a response is required, Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 7 and, therefore, denies them.

8. Bloosky admits that it maintains a place of business in Utah. The remaining allegations of paragraph 8 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky is without sufficient knowledge or information at this

time to form a belief as to the truth of the remaining allegations of paragraph 8 and, therefore, denies them.

9. Whether venue is proper in this Court is a legal conclusion to which no response by Bloosky is required. To the extent a response is required, Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 9 and, therefore, denies them.

**DEFENDANTS' SCHEME TO DEFRAUD THE PUBLIC USING GOOGLE'S MARKS**

10. The allegations of paragraph 10 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky denies the allegations of paragraph 10 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 10 and, therefore, denies them.

11. Bloosky denies the allegations of paragraph 11 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 11 and, therefore, denies them.

12. Bloosky denies the allegations of paragraph 12 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 12 and, therefore, denies them.

13. Bloosky denies the allegations of paragraph 13 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 13 and, therefore, denies them.

14. Bloosky denies the allegations of paragraph 14 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 14 and, therefore, denies them.

15. Bloosky denies the allegations of paragraph 15 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 15 and, therefore, denies them.

16. Bloosky denies the allegations of paragraph 16 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 16 and, therefore, denies them.

17. Bloosky denies the allegations of paragraph 17 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 17 and, therefore, denies them.

18. Bloosky denies the allegations of paragraph 18 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 18 and, therefore, denies them.

19. Bloosky denies the allegations of paragraph 19 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 19 and, therefore, denies them.

20. Bloosky denies the allegations of paragraph 20 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 20 and, therefore, denies them.

21. Bloosky denies the allegations of paragraph 21 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 21 and, therefore, denies them.

22. Bloosky denies the allegations of paragraph 22 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 22 and, therefore, denies them.

23. Bloosky denies the allegations of paragraph 23 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 23 and, therefore, denies them.

24. Bloosky denies the allegations of paragraph 24 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 24 and, therefore, denies them.

25. Bloosky denies the allegations of paragraph 25 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 25 and, therefore, denies them.

26. Bloosky denies the allegations of paragraph 26 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 26 and, therefore, denies them.

27. The allegations of paragraph 27 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky denies the allegations of paragraph 27 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 27 and, therefore, denies them.

28. Bloosky denies the allegations of paragraph 28 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 28 and, therefore, denies them.

29. Bloosky denies the allegations of paragraph 29 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 29 and, therefore, denies them.

30. Bloosky is without sufficient knowledge or information at this time to form a

belief as to the truth of the allegations of paragraph 30 and, therefore, denies them.

31. Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 31 and, therefore, denies them.

32. Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 32 and, therefore, denies them.

33. Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 33 and, therefore, denies them.

34. Bloosky admits that Google has not authorized Bloosky to use Google's trademarks, and Google has not sponsored or approved any of Bloosky's websites. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 34 and, therefore, denies them.

35. The allegations of paragraph 35 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 35 and, therefore, denies them.

36. Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 36 and, therefore, denies them.

37. The allegations of paragraph 37 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky denies the allegations of paragraph 37 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 37 and, therefore, denies them.

38. Bloosky denies the allegations of paragraph 38 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as

to the truth of the allegations of paragraph 38 and, therefore, denies them.

39. The allegations of paragraph 39 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky denies the allegations of paragraph 39 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 39 and, therefore, denies them.

40. Bloosky admits that Bloosky owns domains, such as btracker.com and sweettracking.com. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 40 and, therefore, denies them.

41. Bloosky admits that Google did not approve use of its marks and/or logo. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 41 and, therefore, denies them.

42. Bloosky admits that the action referenced in paragraph 42 was filed and affirmatively alleges that the records of such action speak for themselves. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 42 and, therefore, denies them.

43. Bloosky affirmatively alleges that the complaint referenced in paragraph 43 speaks for itself. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 43 and, therefore, denies them.

44. Bloosky affirmatively alleges that the temporary restraining order referenced in paragraph 44 speaks for itself. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 44 and, therefore, denies them.

45. Bloosky affirmatively alleges that the preliminary injunction referenced in paragraph 45 speaks for itself. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 45 and, therefore, denies them.

46. Bloosky admits that the action referenced in paragraph 46 was filed and affirmatively alleges that the records of such action speak for themselves. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 46 and, therefore, denies them.

47. Bloosky affirmatively alleges that the complaint referenced in paragraph 47 speaks for itself. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 47 and, therefore, denies them.

48. Bloosky affirmatively alleges that the actions referenced in paragraph 48 speak for themselves. Bloosky denies the remaining allegations of paragraph 48 as they apply to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 48 and, therefore, denies them.

#### **FIRST CLAIM FOR RELIEF**

##### **Infringement of Federally Registered Trademarks and Service Marks**

##### **15 U.S.C. § 1114(1)(a)**

49. In response to paragraph 49, Bloosky incorporates its responses contained in all of the preceding paragraphs of this answer.

50. Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 50 and, therefore, denies them.

51. Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 51 and, therefore, denies them.



52. Bloosky denies the allegations of paragraph 52 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 52 and, therefore, denies them.

53. Bloosky denies the allegations of paragraph 53 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 53 and, therefore, denies them.

54. Bloosky denies the allegations of paragraph 54 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 54 and, therefore, denies them.

55. Bloosky denies the allegations of paragraph 55 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 55 and, therefore, denies them.

56. Bloosky denies the allegations of paragraph 56 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 56 and, therefore, denies them.

57. Bloosky denies the allegations of paragraph 57 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 57 and, therefore, denies them.

## **SECOND CLAIM FOR RELIEF**

### **Federal Unfair Competition and False Designation of Origin**

#### **15 U.S.C. § 1125(a)**

58. In response to paragraph 58, Bloosky incorporates its responses contained in all of the preceding paragraphs of this answer.

59. Bloosky denies the allegations of paragraph 59 as they pertain to Bloosky.

Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 59 and, therefore, denies them.

60. Bloosky denies the allegations of paragraph 60 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 60 and, therefore, denies them.

61. The allegations of paragraph 61 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky denies the allegations of paragraph 61 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 61 and, therefore, denies them.

62. The allegations of paragraph 62 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky denies the allegations of paragraph 62 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 62 and, therefore, denies them.

63. Bloosky denies the allegations of paragraph 63 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 63 and, therefore, denies them.

### **THIRD CLAIM FOR RELIEF**

#### **Federal Dilution By Tarnishment**

#### **15 U.S.C. § 1125(c)**

64. In response to paragraph 64, Bloosky incorporates its responses contained in all of the preceding paragraphs of this answer.

65. Bloosky is without sufficient knowledge or information at this time to form a

belief as to the truth of the allegations of paragraph 65 and, therefore, denies them.

66. Bloosky denies the allegations of paragraph 66 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 66 and, therefore, denies them.

67. Bloosky denies the allegations of paragraph 67 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 67 and, therefore, denies them.

68. Bloosky denies the allegations of paragraph 68 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 68 and, therefore, denies them.

#### **FOURTH CLAIM FOR RELIEF**

##### **Violation of Anti-Cybersquatting Consumer Protection Act (Cyberpiracy)**

##### **15 U.S.C. § 1125(d)(As to Defendant Bloosky and Doe Defendants Only)**

69. In response to paragraph 69, Bloosky incorporates its responses contained in all of the preceding paragraphs of this answer.

70. Bloosky denies the allegations of paragraph 70 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 70 and, therefore, denies them.

71. Bloosky denies the allegations of paragraph 71 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 71 and, therefore, denies them.

72. Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 72 and, therefore, denies them.

73. Bloosky is without sufficient knowledge or information at this time to form a

belief as to the truth of the allegations of paragraph 73 and, therefore, denies them.

74. Bloosky denies the allegations of paragraph 74 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 74 and, therefore, denies them.

75. Bloosky denies the allegations of paragraph 75 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 75 and, therefore, denies them.

76. Bloosky denies the allegations of paragraph 76 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 76 and, therefore, denies them.

#### **FIFTH CLAIM FOR RELIEF**

##### **Violation of Utah Unfair Competition Act**

##### **Utah Code Ann. § 13-5a-102**

77. In response to paragraph 77, Bloosky incorporates its responses contained in all of the preceding paragraphs of this answer.

78. The allegations of paragraph 78 are legal conclusions to which no response by Bloosky is required. To the extent a response is required, Bloosky denies the allegations of paragraph 78 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 78 and, therefore, denies them.

79. Bloosky denies the allegations of paragraph 79 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 79 and, therefore, denies them.

80. Bloosky denies the allegations of paragraph 80 as they pertain to Bloosky.

Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 80 and, therefore, denies them.

81. Bloosky denies the allegations of paragraph 81 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 81 and, therefore, denies them.

82. Bloosky denies the allegations of paragraph 82 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 82 and, therefore, denies them.

### **SIXTH CLAIM FOR RELIEF**

#### **Violation of Utah Consumer Sales Practices Act**

##### **Utah Code Ann. § 13-11-4**

83. In response to paragraph 83, Bloosky incorporates its responses contained in all of the preceding paragraphs of this answer.

84. Bloosky denies the allegations of paragraph 84 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 84 and, therefore, denies them.

85. Bloosky denies the allegations of paragraph 85 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 85 and, therefore, denies them.

86. Bloosky denies the allegations of paragraph 86 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 86 and, therefore, denies them.

87. Bloosky denies the allegations of paragraph 87 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as

to the truth of the allegations of paragraph 87 and, therefore, denies them.

## **SEVENTH CLAIM FOR RELIEF**

### **Trademark Dilution**

#### **Utah Code Ann. § 70-3a-403**

88. In response to paragraph 88, Bloosky incorporates its responses contained in all of the preceding paragraphs of this answer.

89. Bloosky is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 89 and, therefore, denies them.

90. Bloosky denies the allegations of paragraph 90 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 90 and, therefore, denies them.

91. Bloosky denies the allegations of paragraph 91 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 91 and, therefore, denies them.

92. Bloosky denies the allegations of paragraph 92 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 92 and, therefore, denies them.

93. Bloosky denies the allegations of paragraph 93 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 93 and, therefore, denies them.

## **EIGHTH CLAIM FOR RELIEF**

### **Trademark Infringement and Unfair Competition**

#### **Utah Common Law**

94. In response to paragraph 94, Bloosky incorporates its responses contained in all of

the preceding paragraphs of this answer.

95. Bloosky denies the allegations of paragraph 95 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 95 and, therefore, denies them.

96. Bloosky denies the allegations of paragraph 96 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 96 and, therefore, denies them.

97. Bloosky denies the allegations of paragraph 97 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 97 and, therefore, denies them.

98. Bloosky denies the allegations of paragraph 98 as they pertain to Bloosky. Bloosky otherwise is without sufficient knowledge or information at this time to form a belief as to the truth of the allegations of paragraph 98 and, therefore, denies them.

99. The allegations in paragraph 99 are legal conclusions or other non-factual allegations to which no response by Bloosky is required.

#### **GENERAL DENIAL**

Bloosky denies each and every allegation of the first amended complaint not expressly admitted herein, including, without limitation, all allegations contained in the introduction to Google's First Amended Complaint and prayer for relief.

#### **AFFIRMATIVE DEFENSES**

##### **FIRST AFFIRMATIVE DEFENSE**

##### **(Insufficient Facts)**

Google's First Amended Complaint fails to allege facts sufficient to state a cause of action, or causes of action, against Bloosky.

## **SECOND AFFIRMATIVE DEFENSE**

### **(Failure to Mitigate)**

Google has failed to mitigate Google's alleged damages, if any, including Google's failure to use reasonable care to reduce and /or minimize the damage, if any, resulting from the matters alleged in the First Amended Complaint. Such failure is a direct and proximate cause of any and all damage or other harm allegedly suffered by Google.

## **THIRD AFFIRMATIVE DEFENSE**

### **(Unclean Hands)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred by the Doctrine of Unclean Hands.

## **FOURTH AFFIRMATIVE DEFENSE**

### **(Estoppel)**

Google's First Amended Complaint, and each of the purported causes of action, is barred under the Doctrine of Estoppel.

## **FIFTH AFFIRMATIVE DEFENSE**

### **(Waiver)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred by the Doctrine of Waiver.

## **SIXTH AFFIRMATIVE DEFENSE**

### **(Laches)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred by the Doctrine of Laches.

## **SEVENTH AFFIRMATIVE DEFENSE**

### **(In Pari Delicto)**



Google's First Amended Complaint, and each purported cause of action contained therein, is barred by the Doctrine of in pari delicto.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Bad Faith)**

Google's First Amended Complaint, and each cause of action contained therein, is barred by the acts, agreements, omissions, representations and other conduct committed by Google in bad faith.

**NINTH AFFIRMATIVE DEFENSE**

**(Lack of Causation)**

The acts and omissions of Bloosky, if any, as alleged in Google's First Amended Complaint were not actual or proximate cause of the loss or damage, if any, for which Google seeks recovery.

**TENTH AFFIRMATIVE DEFENSE**

**(Lack of Privity)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred by lack of privity.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Failure to Join)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred by Google's failure to join necessary and/or indispensable parties to the action.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Wrongful Acts)**

Bloosky alleges that if it is determined that any amount is due and owing to Google, such amount must be offset by the damages inflicted upon Bloosky by Google's wrongful acts which

include, but are not limited to, the filing of this action which is without merit, was filed in bad faith, and solely for harassment purposes.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Acts of Others)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred because Google's alleged damages, if any, were caused solely by the acts and omissions of Google or by other persons or entities over whom Bloosky had no control and for which Bloosky is not responsible.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Contributory Fault)**

Google's alleged damages, if any, are due to the contributory fault of Google and to the comparative fault of others.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**(No Damages)**

Bloosky alleges that Google's First Amended Complaint fails because Google has suffered no damages which are compensable under the law.

**SIXTEENTH AFFIRMATIVE DEFENSE**

**(Public Policy)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred for reasons of public policy.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

**(Assumption of Risk)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred because Google assumed the risk of the alleged damages of which Google

complains.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

**(Lack of Standing)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred because Google lacks standing to bring such claims.

**NINETEENTH AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred by the applicable statutes of limitations.

**TWENTIETH AFFIRMATIVE DEFENSE**

**(Good Faith)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred because the alleged acts and omissions of Bloosky were undertaken in good faith, with a valid business purpose, and absent any malicious or willful intent to injure Google.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

**(Unenforceable Trademarks)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred because Google's trademarks are unenforceable or improperly asserted.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(Implied Consent)**

Google's First Amended Complaint, and each purported cause of action contained therein, is barred because any use of Google's trademarks by Bloosky, if any, was undertaken with Google's implied consent.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

**(Reservation of Additional Defenses)**

Bloosky presently has insufficient knowledge and information upon which to form a belief as to whether he may have additional, and as yet unstated, affirmative defenses available. As such, Bloosky reserves the right to assert additional affirmative defenses in the event discovery reveals facts which render them appropriate.

**PRAYER**

WHEREFORE, Bloosky prays the following:

1. Google take nothing by its First Amended Complaint on file herein;
2. Google's First Amended Complaint be dismissed with prejudice;
3. Bloosky be granted attorney's fees and costs of suit incurred herein as allowed by law;
4. For such further relief as the Court deems proper.

DATED: July 2, 2010

CHRISTIANSEN & JACKSON, PC

By /s/ Blair R. Jackson /s\_\_\_\_\_

Blair R. Jackson

Attorneys for Defendant, Bloosky Interactive, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on July 2, 2010, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Central Division of Utah, using the electronic case files system of the court. The electronic case files system sent a “Notice of Electronic Filing” to individuals who have consented in writing to accept this Notice as service of this document by electronic means.

DATED: July 2, 2010

CHRISTIANSEN & JACKSON, PC

By /s/ Blair R. Jackson /s

Blair R. Jackson  
Attorneys for Defendant, Bloosky Interactive, LLC